

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

ATTORNEYS AT LAW

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\*BAR OTHER THAN D.C.  
\*\*REGISTERED PATENT AGENTS

December 4, 2000



WRITER'S DIRECT NUMBER:  
(202) 371-2643

INTERNET ADDRESS:  
AFERRO@SKGF.COM

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Commissioner for Patents  
Washington, D.C. 20231

Attn: Box DAC  
OFFICE OF PETITIONS

Re: U.S. Utility Patent Application  
Appl. No. 09/236,113; Filed: January 25, 1999  
For: Cathode Arc Source and Graphite Target  
Inventors: Shi *et al.*  
Our Ref: 1581.0250001/DKSC/ALF

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Fee Transmittal Form PTO/SB/17 (in duplicate);
2. Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a);
3. A copy of the Combined Declaration for Patent Application and Power of Attorney (original previously submitted on Sept. 13, 1999);
4. A Second Declaration of George W. Schlich Under M.P.E.P. § 409.03(d) with Exhibits A-F attached thereto;
5. A copy of the first Declaration of George W. Schlich Under M.P.E.P. § 409.03(d) (original previously submitted on Sept. 13, 1999);
6. A copy of the Declaration of Dr. Xu Shi Under M.P.E.P. § 409.03(d) (original previously submitted on Sept. 13, 1999);
7. Our Check No. 29672 for \$130.00 to cover Petition fee; and ✓
8. One return postcard.

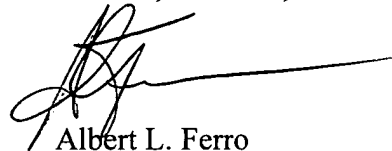
Commissioner for Patents  
December 4, 2000  
Page 2

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036. A duplicate copy of this letter is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



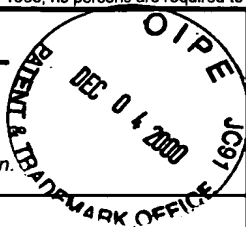
Albert L. Ferro  
Attorney for Applicant  
Registration No. 44,679

Enclosures

DKSC/ALF:vrh  
P:\USERS\VBAYNE\Ferro-3\1581\025-1\Petition-ptoltr  
SKGF Rev. 4/27/00 mac

# FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.



TOTAL AMOUNT OF PAYMENT (\$130.00)

Complete if Known	
Application Number	09/236,113
Filing Date	January 25, 1999
First Named Inventor	Xu Shi
Examiner Name	To be assigned
Group Art Unit	1753
Attorney Docket No.	1581.0250001/DKSC/ALF

RECEIVED

METHOD OF PAYMENT (check one)		FEE CALCULATION (continued)																																																																																																																																																																															
<p>1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to:</p> <p>Deposit Account Number: 19-0036</p> <p>Deposit Account Name: Sterne, Kessler, Goldstein &amp; Fox P.L.L.C.</p> <p><input type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17</p> <p><input type="checkbox"/> Applicant claims small entity status See 37 CFR 1.27</p>		<p>3. ADDITIONAL FEES</p> <table border="1"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee paid</th> </tr> </thead> <tbody> <tr> <td>105</td> <td>130</td> <td>205</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>127</td> <td>50</td> <td>227</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>139</td> <td>130</td> <td>139</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>147</td> <td>2,520</td> <td>147</td> <td>2,520</td> <td>For filing a request for <i>ex parte</i> reexamination</td> <td></td> </tr> <tr> <td>112</td> <td>920*</td> <td>112</td> <td>920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>113</td> <td>1,840*</td> <td>113</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>115</td> <td>110</td> <td>215</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>116</td> <td>390</td> <td>216</td> <td>195</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>117</td> <td>890</td> <td>217</td> <td>445</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>118</td> <td>1,390</td> <td>218</td> <td>695</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>128</td> <td>1,890</td> <td>228</td> <td>945</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>119</td> <td>310</td> <td>219</td> <td>155</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>120</td> <td>310</td> <td>220</td> <td>155</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>121</td> <td>270</td> <td>221</td> <td>135</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>138</td> <td>1,510</td> <td>138</td> <td>1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>140</td> <td>110</td> <td>240</td> <td>55</td> <td>Petition to revive - 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late filing fee or oath		127	50	227	25	Surcharge - late provisional filing fee or cover sheet		139	130	139	130	Non-English specification		147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination		112	920*	112	920*	Requesting publication of SIR prior to Examiner action		113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		115	110	215	55	Extension for reply within first month		116	390	216	195	Extension for reply within second month		117	890	217	445	Extension for reply within third month		118	1,390	218	695	Extension for reply within fourth month		128	1,890	228	945	Extension for reply within fifth month		119	310	219	155	Notice of Appeal		120	310	220	155	Filing a brief in support of an appeal		121	270	221	135	Request for oral hearing		138	1,510	138	1,510	Petition to institute a public use proceeding		140	110	240	55	Petition to revive - unavoidable		141	1,240	241	620	Petition to revive - unintentional		142	1,240	242	620	Utility issue fee (or reissue)		143	440	243	220	Design issue fee		144	600	244	300	Plant issue fee		122	130	122	130	Petitions to the Commissioner	130.00	123	130	123	130	Petitions related to provisional applications		126	180	126	180	Submission of Information Disclosure Stmt		581	40	481	40	Recording each patent assignment per property (times number of properties)		146	710	246	355	Filing a submission after final rejection (37 CFR 1.129(a))		149	710	249	355	For each additional invention to be examined (37 CFR 1.129(b))		179	710	279	355	Request for Continued Examination (RCE)		169	900	169	900	Request for expedited examination of a design application	
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SUBMITTED BY		Complete (if applicable)			
Name (Print/Type)	Albert L. Ferro	Registration No. (Attorney/Agent)	44,679	Telephone	202-371-2600
Signature		Date	Dec. 4, 2000		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



#7  
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DEC 05 2000

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Shi *et al.*

Appl. No.: 09/236,113

Filed: January 25, 1999

For: **Cathode Arc Source and Graphite Target**

Art Unit: 1753

Examiner: To Be Assigned

Atty Docket: 1581.0250001/LEA/ALF

**Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)**

Commissioner for Patents  
Box DAC  
Washington, DC 20231

Sir:

In accordance with the requirements of 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a),

Applicants have filed herewith the following documents:

Adjustment date: 05/09/2001 LGIBBS

12/05/2000 SLUANG1 00000053 09236113

01 FC:122

Repln. Ref: 05/09/2001 LGIBBS 0014401800

DAH:190036 Name/Number:09236113

FC: 704

\$130.00 CR

Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a);

A Copy of the Combined Declaration for Patent Application and Power of

Attorney (original previously submitted on September 13, 1999);

- (3) Copy of a second Declaration of George W. Schlich under M.P.E.P § 409.03(d);
- (4) Copy of Declaration of Dr. Xu Shi under M.P.E.P. § 409.03(d) (original previously submitted on September 13, 1999);
- (5) Declaration of George W. Schlich under M.P.E.P. § 409.03(d) (original previously submitted on September 13, 1999);
- (6) Copy of SKGF Check No. 29672 in the amount of \$130.00 to cover the petition fee as set forth in 37 C.F.R. § 1.17(i).

12/05/2000 SLUANG1 00000053 09236113

01 FC:122

130. 00

Applicants request reconsideration of this petition under 37 C.F.R. § 1.47(a) in response to the decision on the first petition dated October 3, 2000. Because the second Declaration of George W. Schlich, submitted with this request for reconsideration, provides the necessary factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, Applicants respectfully request that this second petition be granted.

In the Combined Declaration for Patent Application and Power of Attorney, all of the signing inventors have made the required declarations under 37 C.F.R. 1.47(a) on their own behalf, and on behalf of the non-signing inventor, David Flynn. The Combined declaration and Power of Attorney includes the last known address at which Mr. Flynn customarily receives mail, as required by M.P.E.P. § 409.03(e).

The second Declaration of George W. Schlich (the "Second Schlich Declaration") demonstrates that a bona fide attempt was made to provide the missing joint inventor, namely Mr. David Flynn, with a complete set of application papers (specification, including claims, drawings, and an oath or declaration) for signature. As detailed in the Second Schlich Declaration, Mr. Flynn was sent a complete set of application papers pertaining to the above-reference patent application, giving Mr. Flynn the opportunity to join in the application. Second Schlich Declaration, ¶ 6. Despite this opportunity, Mr. Flynn has not responded. Second Schlich Declaration, ¶ 7. Thus, the Second Schlich Declaration provides the necessary evidence of a bona fide attempt to obtain the signature of the missing joint inventor on the patent application.

In addition to the Second Schlich Declaration, Applicants submit several other documents to provide further evidence that a bona fide attempt has been made to join the missing inventor in the above-referenced patent application.

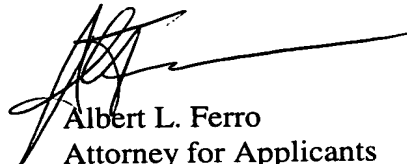
The Declaration of Dr. Shi Xu and the first Declaration of George W. Schlich under M.P.E.P. § 409.03(d) ("the Xu declaration" and "the First Schlich declaration") provide proof of the pertinent facts regarding the refusal of Mr. Flynn to join in the application. Paragraphs 1-5 of the First Schlich Declaration are identical to paragraphs 1-5 of the Second Schlich Declaration. As detailed in the Schlich declarations, Mr. Flynn was requested, by letter, to sign the documents relating to the above-referenced application on several occasions. Schlich Declarations, ¶¶ 2-5. Mr. Flynn telephoned Mr. Schlich's firm on May 13, 1999 and informed them that he was not going to sign the documents. Schlich Declarations, ¶ 2. Mr. Flynn advised Mr. Schlich's firm that he was not signing the documents until potential compensation issues were resolved. Schlich Declarations, ¶ 2. Continued attempts to contact Mr. Flynn to have him sign the documents were unsuccessful. Schlich Declarations, ¶ 3-5. On August 4, 1999, Mr. Flynn was again sent the documents for his signature. Schlich Declarations, ¶ 4. Mr. Flynn also refused to sign the documents on September 6, 1999. Schlich Declarations, ¶ 5.

Applicants respectfully submit that the documents and fees filed herewith satisfy all the requirements of 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a), (d), and (e). Accordingly, Applicants respectfully request that the above-referenced application is accepted, and that a filing receipt is issued in accordance with M.P.E.P. § 409.03(h).

The U.S. Patent and Trademark Office is authorized to charge any deficiency in fees to our Deposit Account No. 19-0036.

Respectfully submitted,

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Date: December 4, 2000

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